



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 22, 2013

Ms. Charlotte Kim
Assistant Criminal District Attorney
Waller County
645 12th Street
Hempstead, Texas 77445

OR2013-18356

Dear Ms. Kim:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 503114.

The Waller County Sheriff's Office (the "sheriff's office") received a request for information pertaining to the purchase of firearms using asset forfeiture funds by the sheriff's office over a specified period of time. You state the sheriff's office released some of the requested information. You claim portions of the submitted information are excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the submitted information is subject to section 552.022 of the Government Code. Section 552.022(a) provides, in relevant part:

(a) [T]he following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

...

(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body[.]

Gov't Code § 552.022(a)(3). The submitted information consists of information in an account, voucher, or contract relating to the expenditure of public funds by a governmental body subject to subsection 552.022(a)(3). The submitted information must be released unless it is made confidential under the Act or other law. *See id.* Although you raise section 552.108 of the Government Code for portions of the submitted information, this section is a discretionary exception to disclosure and does not make information confidential under the Act. *See* Open Records Decision No. 177 at 3 (1977) (statutory predecessor to Gov't Code § 552.108 subject to waiver); *see also* Open Records Decision No. 665 at 2 n.5 (2000) (discretionary exceptions generally). However, because sections 552.102, 552.117, 552.130, and 552.137 of the Government Code make information confidential under the Act, we will address their applicability to the submitted information.¹

Section 552.102(a) of the Government Code excepts from disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy[.]" Gov't Code § 552.102(a). The Texas Supreme Court held section 552.102(a) excepts from disclosure the dates of birth of state employees in the payroll database of the Texas Comptroller of Public Accounts. *Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex.*, 354 S.W.3d 336 (Tex. 2010). Upon review, we find the sheriff's office must withhold the date of birth we have marked under section 552.102(a) of the Government Code.

Section 552.117(a)(2) of the Government Code excepts from public disclosure the home address, home telephone number, emergency contact information, and social security number of a peace officer, as well as information that reveals whether the peace officer has family members, regardless of whether the peace officer complies with sections 552.024 and 552.1175 of the Government Code. *See* Gov't Code § 552.117(a)(2). Section 552.117(a)(2) applies to peace officers as defined by article 2.12 of the Code of Criminal Procedure. Upon review, we find the sheriff's office must withhold the information we have marked under section 552.117(a)(2) of the Government Code.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of Texas or another state or country is excepted from public release. *Id.* § 552.130(a). Upon review, we find the sheriff's office must withhold the driver's license number we have marked under section 552.130 of the Government Code.

¹The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See id.* § 552.137(a)-(c). The e-mail address at issue is not within the scope of section 552.137(c). Accordingly, the sheriff’s office must withhold the e-mail address we have marked under section 552.137 of the Government Code, unless the owner affirmatively consents to its release.

In summary, the sheriff’s office must withhold the date of birth we have marked under section 552.102(a) of the Government Code, the information we have marked under section 552.117(a)(2) of the Government Code, the driver’s license number we have marked under section 552.130 of the Government Code, and the e-mail address we have marked under section 552.137 of the Government Code, unless the owner affirmatively consents to its release. The remaining information must be released.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Megan G. Holloway
Assistant Attorney General
Open Records Division

MGH/dls

Ref: ID# 503114

Enc. Submitted documents

c: Requestor
(w/o enclosures)